



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB3050

by Rep. Elizabeth Hernandez

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Human Services Act. Provides that the Department shall develop informational materials for families and children of parents who have been arrested and issued an immigration hold or detained by the Department of Homeland Security. Amends the Juvenile Court Act of 1987. Makes numerous changes regarding: the immigration status of a parent, guardian, legal custodian, or responsible relative; establishment of memoranda of understanding with appropriate foreign consulates for juvenile court cases in which a parent has been arrested and issued an immigration hold, has been detained by the Department of Homeland Security, or has been deported to his or her country of origin; services to assist parents who have been deported; assistance to a minor in a juvenile court case who is eligible for special immigrant juvenile status; consideration of a parent's detention by the Department of Homeland Security or deportation; continuances if a parent has been arrested and issued an immigration hold, detained by the Department of Homeland Security, or deported; placement outside the United States; and other matters. Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that the immigration status of a parent, legal guardian, or relative does not disqualify the parent, legal guardian, or relative from receiving custody of a child. Amends the Probate Act of 1975. Provides that relative's immigration status does not disqualify the relative from acting as guardian of a minor.

LRB098 10023 HEP 40182 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Department of Human Services Act is amended  
5 by changing Section 1-35 as follows:

6 (20 ILCS 1305/1-35)

7 Sec. 1-35. Families of incarcerated parents. The  
8 Department of Human Services and the Illinois Department of  
9 Corrections shall work cooperatively with community  
10 organizations and service providers to identify local  
11 providers of services and to develop informational materials  
12 for families and children of incarcerated parents.

13 The Department of Human Services shall develop  
14 informational materials for families and children of  
15 incarcerated parents. The materials shall be designed to inform  
16 children and families of incarcerated parents about the social  
17 services that are available to them, including visitation  
18 programs, family counseling, mentoring, school-based programs,  
19 and other programs identified by community organizations that  
20 work with families of prisoners. The materials shall be  
21 designed to reduce stigma and to provide support for children  
22 of incarcerated parents. The materials shall (i) provide  
23 telephone and Internet contacts for the children's caregivers

1 with further information and (ii) assist the children's  
2 caregivers in locating and accessing services for the children.  
3 The Department shall make this information available through  
4 its website and through its existing toll-free telephone  
5 numbers. The Department shall also develop appropriate  
6 informational materials for families and children of parents  
7 who have been arrested and issued an immigration hold or  
8 detained by the United States Department of Homeland Security  
9 and make the materials available through its website and  
10 through its existing toll-free telephone numbers.

11 The Department of Corrections shall provide the materials  
12 to inmates during orientation. The Department of Corrections  
13 shall provide one sealed envelope containing the public  
14 information to the inmate so that the inmate may address it to  
15 the inmate's children's caregiver. The Department of  
16 Corrections shall mail that envelope to the address provided by  
17 the inmate. The cost of postage will be charged to the inmate's  
18 trust account. If the inmate is indigent, the Department of  
19 Corrections shall pay the postage fees for mailing the  
20 informational material to the inmate's children's caregiver.  
21 The informational materials shall also be made available within  
22 the Department of Corrections' facility visiting rooms and  
23 waiting areas.

24 (Source: P.A. 96-68, eff. 7-23-09.)

25 Section 10. The Juvenile Court Act of 1987 is amended by

1 changing Sections 2-4a and 2-28 and adding Sections 1-19, 1-20,  
2 1-21, 2-35, and 2-36 as follows:

3 (705 ILCS 405/1-19 new)

4 Sec. 1-19. Immigration status. When any provision of  
5 Article II, III, IV, or V of this Act authorizes a minor to be  
6 released to the custody of, placed with, or restored to the  
7 custody of his or her parent, guardian, legal custodian, or  
8 responsible relative, the immigration status of the parent,  
9 guardian, legal custodian, or responsible relative does not  
10 disqualify the parent, guardian, legal custodian, or  
11 responsible relative from receiving the custody or placement.

12 (705 ILCS 405/1-20 new)

13 Sec. 1-20. Memoranda of understanding with appropriate  
14 foreign consulates.

15 (a) The Department of Children and Family Services shall  
16 provide guidance on best practices and facilitate an exchange  
17 of information and best practices among counties on an annual  
18 basis, commencing no later than January 1, 2015, on  
19 establishing memoranda of understanding with appropriate  
20 foreign consulates for juvenile court cases in which a parent  
21 has been arrested and issued an immigration hold, has been  
22 detained by the United States Department of Homeland Security,  
23 or has been deported to his or her country of origin. This  
24 exchange of information may be accomplished by posting training

1 and other information on the Department's Internet Web site.

2 (b) The memoranda of understanding shall include, but shall  
3 not be limited to, procedures for contacting a foreign  
4 consulate at the onset of a juvenile court case, accessing  
5 documentation for the child, locating a detained parent,  
6 facilitating family reunification once a parent has been  
7 deported to his or her country of origin, aiding the safe  
8 transfer of a child to the parent's country of origin, and  
9 communicating with relevant departments and services in the  
10 parent's country of origin, including, when appropriate,  
11 allowing reports from the foreign child welfare authorities  
12 documenting the parent's living situation and the parent's  
13 participation in service plans in the country of origin that  
14 are in compliance with the case plan requirements.

15 (705 ILCS 405/1-21 new)

16 Sec. 1-21. Reunification services; parents who have been  
17 deported. Reunification services under this Act may include  
18 reasonable efforts to assist parents who have been deported to  
19 contact child welfare authorities in their country of origin,  
20 to identify any available services that would substantially  
21 comply with case plan requirements, to document the parents'  
22 participation in those services, and to accept reports from  
23 local child welfare authorities as to the parents' living  
24 situation, progress, and participation in services.

1 (705 ILCS 405/2-4a)

2 Sec. 2-4a. Special immigrant minor.

3 (a) Except as otherwise provided in this Act, a special  
4 immigrant minor under 18 years of age who has been made a ward  
5 of the court may be deemed eligible by the court for long-term  
6 foster care due to abuse, neglect, or abandonment and remain  
7 under the jurisdiction of the juvenile court until his or her  
8 special immigrant juvenile status and adjustment of status  
9 applications are adjudicated. The petition filed on behalf of  
10 the special immigrant minor must allege that he or she  
11 otherwise satisfies the prerequisites for special immigrant  
12 juvenile status pursuant to 8 U.S.C. Section 1101(a)(27)(J) and  
13 must state the custodial status sought on behalf of the minor.

14 (b) For the purposes of this Section, a juvenile court may  
15 make a finding that a special immigrant minor is eligible for  
16 long term foster care if the court makes the following  
17 findings:

18 (1) That a reasonable diligent search for biological  
19 parents, prior adoptive parents, or prior legal guardians  
20 has been conducted; and

21 (2) That reunification with the minor's biological  
22 parents or prior adoptive parents is not a viable option.

23 (b-5) The Department of Children and Family Services shall  
24 provide guidance on best practices and facilitate an exchange  
25 of information and best practices among counties on an annual  
26 basis, commencing no later than January 1, 2015, on assisting a

1 minor in a juvenile court case who is eligible for special  
2 immigrant juvenile status under 8 U.S.C. Section  
3 1101(a)(27)(J). This exchange of information may be  
4 accomplished by posting training and other information on the  
5 Department's Internet Web site. The guidance shall include  
6 procedures for assisting eligible minors in applying for  
7 special immigrant juvenile status, before the children reach 21  
8 years of age or get married, and applying for T visas, U visas,  
9 and federal Violence Against Women Act of 1994 self-petitions.

10 (c) For the purposes of this Section:

11 (1) The term "abandonment" means the failure of a  
12 parent or legal guardian to maintain a reasonable degree of  
13 interest, concern, or responsibility for the welfare of his  
14 or her minor child or ward.

15 (2) The term "special immigrant minor" means an  
16 immigrant minor who (i) is present in the United States and  
17 has been made a ward of the court and (ii) for whom it has  
18 been determined by the juvenile court or in an  
19 administrative or judicial proceeding that it would not be  
20 in his or her best interests to be returned to his or her  
21 previous country of nationality or country of last habitual  
22 residence.

23 (d) This Section does not apply to a minor who applies for  
24 special immigrant minor status solely for the purpose of  
25 qualifying for financial assistance for himself or herself or  
26 for his or her parents, guardian, or custodian.

1 (Source: P.A. 93-145, eff. 7-10-03.)

2 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

3 Sec. 2-28. Court review.

4 (1) The court may require any legal custodian or guardian  
5 of the person appointed under this Act to report periodically  
6 to the court or may cite him into court and require him or his  
7 agency, to make a full and accurate report of his or its doings  
8 in behalf of the minor. The custodian or guardian, within 10  
9 days after such citation, shall make the report, either in  
10 writing verified by affidavit or orally under oath in open  
11 court, or otherwise as the court directs. Upon the hearing of  
12 the report the court may remove the custodian or guardian and  
13 appoint another in his stead or restore the minor to the  
14 custody of his parents or former guardian or custodian.  
15 However, custody of the minor shall not be restored to any  
16 parent, guardian or legal custodian in any case in which the  
17 minor is found to be neglected or abused under Section 2-3 or  
18 dependent under Section 2-4 of this Act, unless the minor can  
19 be cared for at home without endangering the minor's health or  
20 safety and it is in the best interests of the minor, and if  
21 such neglect, abuse, or dependency is found by the court under  
22 paragraph (1) of Section 2-21 of this Act to have come about  
23 due to the acts or omissions or both of such parent, guardian  
24 or legal custodian, until such time as an investigation is made  
25 as provided in paragraph (5) and a hearing is held on the issue

1 of the fitness of such parent, guardian or legal custodian to  
2 care for the minor and the court enters an order that such  
3 parent, guardian or legal custodian is fit to care for the  
4 minor.

5 (2) The first permanency hearing shall be conducted by the  
6 judge. Subsequent permanency hearings may be heard by a judge  
7 or by hearing officers appointed or approved by the court in  
8 the manner set forth in Section 2-28.1 of this Act. The initial  
9 hearing shall be held (a) within 12 months from the date  
10 temporary custody was taken, regardless of whether an  
11 adjudication or dispositional hearing has been completed  
12 within that time frame, (b) if the parental rights of both  
13 parents have been terminated in accordance with the procedure  
14 described in subsection (5) of Section 2-21, within 30 days of  
15 the order for termination of parental rights and appointment of  
16 a guardian with power to consent to adoption, or (c) in  
17 accordance with subsection (2) of Section 2-13.1. Subsequent  
18 permanency hearings shall be held every 6 months or more  
19 frequently if necessary in the court's determination following  
20 the initial permanency hearing, in accordance with the  
21 standards set forth in this Section, until the court determines  
22 that the plan and goal have been achieved. Once the plan and  
23 goal have been achieved, if the minor remains in substitute  
24 care, the case shall be reviewed at least every 6 months  
25 thereafter, subject to the provisions of this Section, unless  
26 the minor is placed in the guardianship of a suitable relative

1 or other person and the court determines that further  
2 monitoring by the court does not further the health, safety or  
3 best interest of the child and that this is a stable permanent  
4 placement. The permanency hearings must occur within the time  
5 frames set forth in this subsection and may not be delayed in  
6 anticipation of a report from any source or due to the agency's  
7 failure to timely file its written report (this written report  
8 means the one required under the next paragraph and does not  
9 mean the service plan also referred to in that paragraph).

10 The public agency that is the custodian or guardian of the  
11 minor, or another agency responsible for the minor's care,  
12 shall ensure that all parties to the permanency hearings are  
13 provided a copy of the most recent service plan prepared within  
14 the prior 6 months at least 14 days in advance of the hearing.  
15 If not contained in the plan, the agency shall also include a  
16 report setting forth (i) any special physical, psychological,  
17 educational, medical, emotional, or other needs of the minor or  
18 his or her family that are relevant to a permanency or  
19 placement determination and (ii) for any minor age 16 or over,  
20 a written description of the programs and services that will  
21 enable the minor to prepare for independent living. The  
22 agency's written report must detail what progress or lack of  
23 progress the parent has made in correcting the conditions  
24 requiring the child to be in care; whether the child can be  
25 returned home without jeopardizing the child's health, safety,  
26 and welfare, and if not, what permanency goal is recommended to

1 be in the best interests of the child, and why the other  
2 permanency goals are not appropriate. The caseworker must  
3 appear and testify at the permanency hearing. If a permanency  
4 hearing has not previously been scheduled by the court, the  
5 moving party shall move for the setting of a permanency hearing  
6 and the entry of an order within the time frames set forth in  
7 this subsection.

8 At the permanency hearing, the court shall determine the  
9 future status of the child. The court shall set one of the  
10 following permanency goals:

11 (A) The minor will be returned home by a specific date  
12 within 5 months.

13 (B) The minor will be in short-term care with a  
14 continued goal to return home within a period not to exceed  
15 one year, where the progress of the parent or parents is  
16 substantial giving particular consideration to the age and  
17 individual needs of the minor.

18 (B-1) The minor will be in short-term care with a  
19 continued goal to return home pending a status hearing.  
20 When the court finds that a parent has not made reasonable  
21 efforts or reasonable progress to date, the court shall  
22 identify what actions the parent and the Department must  
23 take in order to justify a finding of reasonable efforts or  
24 reasonable progress and shall set a status hearing to be  
25 held not earlier than 9 months from the date of  
26 adjudication nor later than 11 months from the date of

1 adjudication during which the parent's progress will again  
2 be reviewed.

3 (C) The minor will be in substitute care pending court  
4 determination on termination of parental rights.

5 (D) Adoption, provided that parental rights have been  
6 terminated or relinquished.

7 (E) The guardianship of the minor will be transferred  
8 to an individual or couple on a permanent basis provided  
9 that goals (A) through (D) have been ruled out.

10 (F) The minor over age 15 will be in substitute care  
11 pending independence.

12 (G) The minor will be in substitute care because he or  
13 she cannot be provided for in a home environment due to  
14 developmental disabilities or mental illness or because he  
15 or she is a danger to self or others, provided that goals  
16 (A) through (D) have been ruled out.

17 In selecting any permanency goal, the court shall indicate  
18 in writing the reasons the goal was selected and why the  
19 preceding goals were ruled out. Where the court has selected a  
20 permanency goal other than (A), (B), or (B-1), the Department  
21 of Children and Family Services shall not provide further  
22 reunification services, but shall provide services consistent  
23 with the goal selected.

24 (H) Notwithstanding any other provision in this  
25 Section, the court may select the goal of continuing foster  
26 care as a permanency goal if:

1           (1) The Department of Children and Family Services  
2 has custody and guardianship of the minor;

3           (2) The court has ruled out all other permanency  
4 goals based on the child's best interest;

5           (3) The court has found compelling reasons, based  
6 on written documentation reviewed by the court, to  
7 place the minor in continuing foster care. Compelling  
8 reasons include:

9           (a) the child does not wish to be adopted or to  
10 be placed in the guardianship of his or her  
11 relative or foster care placement;

12           (b) the child exhibits an extreme level of need  
13 such that the removal of the child from his or her  
14 placement would be detrimental to the child; or

15           (c) the child who is the subject of the  
16 permanency hearing has existing close and strong  
17 bonds with a sibling, and achievement of another  
18 permanency goal would substantially interfere with  
19 the subject child's sibling relationship, taking  
20 into consideration the nature and extent of the  
21 relationship, and whether ongoing contact is in  
22 the subject child's best interest, including  
23 long-term emotional interest, as compared with the  
24 legal and emotional benefit of permanence;

25           (4) The child has lived with the relative or foster  
26 parent for at least one year; and

1           (5) The relative or foster parent currently caring  
2           for the child is willing and capable of providing the  
3           child with a stable and permanent environment.

4           The court shall set a permanency goal that is in the best  
5           interest of the child. In determining that goal, the court  
6           shall consult with the minor in an age-appropriate manner  
7           regarding the proposed permanency or transition plan for the  
8           minor. The court's determination shall include the following  
9           factors:

10           (1) Age of the child.

11           (2) Options available for permanence, including both  
12           out-of-State and in-State placement options.

13           (3) Current placement of the child and the intent of  
14           the family regarding adoption.

15           (4) Emotional, physical, and mental status or  
16           condition of the child.

17           (5) Types of services previously offered and whether or  
18           not the services were successful and, if not successful,  
19           the reasons the services failed.

20           (6) Availability of services currently needed and  
21           whether the services exist.

22           (7) Status of siblings of the minor.

23           The court shall consider (i) the permanency goal contained  
24           in the service plan, (ii) the appropriateness of the services  
25           contained in the plan and whether those services have been  
26           provided, (iii) whether reasonable efforts have been made by

1 all the parties to the service plan to achieve the goal, and  
2 (iv) whether the plan and goal have been achieved. All evidence  
3 relevant to determining these questions, including oral and  
4 written reports, may be admitted and may be relied on to the  
5 extent of their probative value.

6 The court shall make findings as to whether, in violation  
7 of Section 8.2 of the Abused and Neglected Child Reporting Act,  
8 any portion of the service plan compels a child or parent to  
9 engage in any activity or refrain from any activity that is not  
10 reasonably related to remedying a condition or conditions that  
11 gave rise or which could give rise to any finding of child  
12 abuse or neglect. The services contained in the service plan  
13 shall include services reasonably related to remedy the  
14 conditions that gave rise to removal of the child from the home  
15 of his or her parents, guardian, or legal custodian or that the  
16 court has found must be remedied prior to returning the child  
17 home. Any tasks the court requires of the parents, guardian, or  
18 legal custodian or child prior to returning the child home,  
19 must be reasonably related to remedying a condition or  
20 conditions that gave rise to or which could give rise to any  
21 finding of child abuse or neglect.

22 If the permanency goal is to return home, the court shall  
23 make findings that identify any problems that are causing  
24 continued placement of the children away from the home and  
25 identify what outcomes would be considered a resolution to  
26 these problems. The court shall explain to the parents that

1 these findings are based on the information that the court has  
2 at that time and may be revised, should additional evidence be  
3 presented to the court.

4 The court shall review the Sibling Contact and Support Plan  
5 developed or modified under subsection (f) of Section 7.4 of  
6 the Children and Family Services Act, if applicable. If the  
7 Department has not convened a meeting to develop or modify a  
8 Sibling Contact Support Plan, or if the court finds that the  
9 existing Plan is not in the child's best interest, the court  
10 may enter an order requiring the Department to develop, modify  
11 or implement a Sibling Contact Support Plan, or order  
12 mediation.

13 If the goal has been achieved, the court shall enter orders  
14 that are necessary to conform the minor's legal custody and  
15 status to those findings.

16 If, after receiving evidence, the court determines that the  
17 services contained in the plan are not reasonably calculated to  
18 facilitate achievement of the permanency goal, the court shall  
19 put in writing the factual basis supporting the determination  
20 and enter specific findings based on the evidence. The court  
21 also shall enter an order for the Department to develop and  
22 implement a new service plan or to implement changes to the  
23 current service plan consistent with the court's findings. The  
24 new service plan shall be filed with the court and served on  
25 all parties within 45 days of the date of the order. The court  
26 shall continue the matter until the new service plan is filed.

1 Unless otherwise specifically authorized by law, the court is  
2 not empowered under this subsection (2) or under subsection (3)  
3 to order specific placements, specific services, or specific  
4 service providers to be included in the plan.

5 A guardian or custodian appointed by the court pursuant to  
6 this Act shall file updated case plans with the court every 6  
7 months.

8 Rights of wards of the court under this Act are enforceable  
9 against any public agency by complaints for relief by mandamus  
10 filed in any proceedings brought under this Act.

11 (3) Following the permanency hearing, the court shall enter  
12 a written order that includes the determinations required under  
13 subsection (2) of this Section and sets forth the following:

14 (a) The future status of the minor, including the  
15 permanency goal, and any order necessary to conform the  
16 minor's legal custody and status to such determination; or

17 (b) If the permanency goal of the minor cannot be  
18 achieved immediately, the specific reasons for continuing  
19 the minor in the care of the Department of Children and  
20 Family Services or other agency for short term placement,  
21 and the following determinations:

22 (i) (Blank).

23 (ii) Whether the services required by the court and  
24 by any service plan prepared within the prior 6 months  
25 have been provided and (A) if so, whether the services  
26 were reasonably calculated to facilitate the

1 achievement of the permanency goal or (B) if not  
2 provided, why the services were not provided.

3 (iii) Whether the minor's placement is necessary,  
4 and appropriate to the plan and goal, recognizing the  
5 right of minors to the least restrictive (most  
6 family-like) setting available and in close proximity  
7 to the parents' home consistent with the health,  
8 safety, best interest and special needs of the minor  
9 and, if the minor is placed out-of-State, whether the  
10 out-of-State placement continues to be appropriate and  
11 consistent with the health, safety, and best interest  
12 of the minor.

13 (iv) (Blank).

14 (v) (Blank).

15 (4) The minor or any person interested in the minor may  
16 apply to the court for a change in custody of the minor and the  
17 appointment of a new custodian or guardian of the person or for  
18 the restoration of the minor to the custody of his parents or  
19 former guardian or custodian.

20 When return home is not selected as the permanency goal:

21 (a) The Department, the minor, or the current foster  
22 parent or relative caregiver seeking private guardianship  
23 may file a motion for private guardianship of the minor.  
24 Appointment of a guardian under this Section requires  
25 approval of the court.

26 (b) The State's Attorney may file a motion to terminate

1 parental rights of any parent who has failed to make  
2 reasonable efforts to correct the conditions which led to  
3 the removal of the child or reasonable progress toward the  
4 return of the child, as defined in subdivision (D)(m) of  
5 Section 1 of the Adoption Act or for whom any other  
6 unfitness ground for terminating parental rights as  
7 defined in subdivision (D) of Section 1 of the Adoption Act  
8 exists.

9 When parental rights have been terminated for a minimum  
10 of 3 years and the child who is the subject of the  
11 permanency hearing is 13 years old or older and is not  
12 currently placed in a placement likely to achieve  
13 permanency, the Department of Children and Family Services  
14 shall make reasonable efforts to locate parents whose  
15 rights have been terminated, except when the Court  
16 determines that those efforts would be futile or  
17 inconsistent with the subject child's best interests. The  
18 Department of Children and Family Services shall assess the  
19 appropriateness of the parent whose rights have been  
20 terminated, and shall, as appropriate, foster and support  
21 connections between the parent whose rights have been  
22 terminated and the youth. The Department of Children and  
23 Family Services shall document its determinations and  
24 efforts to foster connections in the child's case plan.

25 Custody of the minor shall not be restored to any parent,  
26 guardian or legal custodian in any case in which the minor is

1 found to be neglected or abused under Section 2-3 or dependent  
2 under Section 2-4 of this Act, unless the minor can be cared  
3 for at home without endangering his or her health or safety and  
4 it is in the best interest of the minor, and if such neglect,  
5 abuse, or dependency is found by the court under paragraph (1)  
6 of Section 2-21 of this Act to have come about due to the acts  
7 or omissions or both of such parent, guardian or legal  
8 custodian, until such time as an investigation is made as  
9 provided in paragraph (5) and a hearing is held on the issue of  
10 the health, safety and best interest of the minor and the  
11 fitness of such parent, guardian or legal custodian to care for  
12 the minor and the court enters an order that such parent,  
13 guardian or legal custodian is fit to care for the minor. In  
14 the event that the minor has attained 18 years of age and the  
15 guardian or custodian petitions the court for an order  
16 terminating his guardianship or custody, guardianship or  
17 custody shall terminate automatically 30 days after the receipt  
18 of the petition unless the court orders otherwise. No legal  
19 custodian or guardian of the person may be removed without his  
20 consent until given notice and an opportunity to be heard by  
21 the court.

22 When the court orders a child restored to the custody of  
23 the parent or parents, the court shall order the parent or  
24 parents to cooperate with the Department of Children and Family  
25 Services and comply with the terms of an after-care plan, or  
26 risk the loss of custody of the child and possible termination

1 of their parental rights. The court may also enter an order of  
2 protective supervision in accordance with Section 2-24.

3 (5) Whenever a parent, guardian, or legal custodian files a  
4 motion for restoration of custody of the minor, and the minor  
5 was adjudicated neglected, abused, or dependent as a result of  
6 physical abuse, the court shall cause to be made an  
7 investigation as to whether the movant has ever been charged  
8 with or convicted of any criminal offense which would indicate  
9 the likelihood of any further physical abuse to the minor.  
10 Evidence of such criminal convictions shall be taken into  
11 account in determining whether the minor can be cared for at  
12 home without endangering his or her health or safety and  
13 fitness of the parent, guardian, or legal custodian.

14 (a) Any agency of this State or any subdivision thereof  
15 shall co-operate with the agent of the court in providing  
16 any information sought in the investigation.

17 (b) The information derived from the investigation and  
18 any conclusions or recommendations derived from the  
19 information shall be provided to the parent, guardian, or  
20 legal custodian seeking restoration of custody prior to the  
21 hearing on fitness and the movant shall have an opportunity  
22 at the hearing to refute the information or contest its  
23 significance.

24 (c) All information obtained from any investigation  
25 shall be confidential as provided in Section 5-150 of this  
26 Act.

1       (6) In determining whether a parent has failed to make  
2 progress under this Section, the court shall consider the  
3 parent's detention by the United States Department of Homeland  
4 Security or deportation.

5       (Source: P.A. 96-600, eff. 8-21-09; 96-1375, eff. 7-29-10;  
6 97-425, eff. 8-16-11; 97-1076, eff. 8-24-12.)

7             (705 ILCS 405/2-35 new)

8       Sec. 2-35. Immigration hold, detention, or deportation.

9       (1) Notwithstanding any other provision of this Article, if  
10 the parent has been arrested and issued an immigration hold,  
11 detained by the United States Department of Homeland Security,  
12 or deported to his or her country of origin, and the court  
13 determines either that there is a substantial probability that  
14 the child will be returned to the physical custody of his or  
15 her parent or legal guardian and safely maintained in the home  
16 within the extended period of time or that reasonable services  
17 have not been provided to the parent or legal guardian, a  
18 proceeding under this Article may be continued for up to 6  
19 months for a permanency hearing, provided that the hearing  
20 shall occur within 18 months of the date the child was  
21 originally taken from the physical custody of his or her parent  
22 or legal guardian.

23       (2) For purposes of subsection (1), in order to find a  
24 substantial probability that the child will be returned to the  
25 physical custody of his or her parent or legal guardian and

1 safely maintained in the home within the extended period of  
2 time, the court must find all of the following:

3 (a) The parent or legal guardian has consistently and  
4 regularly contacted and visited with the child, taking into  
5 account any particular barriers to a parent's ability to  
6 maintain contact with his or her child due to the parent's  
7 arrest and receipt of an immigration hold, detention by the  
8 United States Department of Homeland Security, or  
9 deportation.

10 (b) The parent or legal guardian has made significant  
11 progress in resolving the problems that led to the child's  
12 removal from the home.

13 (c) The parent or legal guardian has demonstrated the  
14 capacity or ability both to complete the objectives of his  
15 or her treatment plan and to provide for the child's  
16 safety, protection, physical and emotional well-being, and  
17 special needs.

18 (705 ILCS 405/2-36 new)

19 Sec. 2-36. Placement outside the United States.

20 (1) Any minor for whom the Department of Children and  
21 Family Services Guardianship Administrator is appointed the  
22 temporary custodian shall not be placed outside the United  
23 States prior to a judicial finding that the placement is in the  
24 best interest of the child, except as required by federal law  
25 or treaty.

1       (2) The party requesting placement of the child outside the  
2 United States shall carry the burden of proof and must show, by  
3 clear and convincing evidence, that placement outside the  
4 United States is in the best interest of the minor.

5       (3) In determining the best interest of the minor, the  
6 court shall consider, but not be limited to, the following  
7 factors:

8           (a) Placement with a relative.

9           (b) Placement of siblings in the same home.

10          (c) The amount and nature of any contact between the  
11 minor and the potential guardian or caretaker.

12          (d) The physical and medical needs of the dependent  
13 minor.

14          (e) The psychological and emotional needs of the  
15 dependent minor.

16          (f) The social, cultural, and educational needs of the  
17 dependent minor.

18          (g) The specific desires of any dependent minor who is  
19 12 years of age or older.

20       (4) If the court finds that a placement outside the United  
21 States is, by clear and convincing evidence, in the best  
22 interest of the minor, the court may issue an order authorizing  
23 the Department of Children and Family Services Guardianship  
24 Administrator to make a placement outside the United States. A  
25 minor subject to this Section shall not leave the United States  
26 prior to the issuance of the order described in this Section.

1           Section 15. The Illinois Marriage and Dissolution of  
2 Marriage Act is amended by changing Section 602 as follows:

3           (750 ILCS 5/602) (from Ch. 40, par. 602)

4           Sec. 602. Best Interest of Child.

5           (a) The court shall determine custody in accordance with  
6 the best interest of the child. The court shall consider all  
7 relevant factors including:

8           (1) the wishes of the child's parent or parents as to  
9 his custody;

10           (2) the wishes of the child as to his custodian;

11           (3) the interaction and interrelationship of the child  
12 with his parent or parents, his siblings and any other  
13 person who may significantly affect the child's best  
14 interest;

15           (4) the child's adjustment to his home, school and  
16 community;

17           (5) the mental and physical health of all individuals  
18 involved;

19           (6) the physical violence or threat of physical  
20 violence by the child's potential custodian, whether  
21 directed against the child or directed against another  
22 person;

23           (7) the occurrence of ongoing or repeated abuse as  
24 defined in Section 103 of the Illinois Domestic Violence

1 Act of 1986, whether directed against the child or directed  
2 against another person;

3 (8) the willingness and ability of each parent to  
4 facilitate and encourage a close and continuing  
5 relationship between the other parent and the child;

6 (9) whether one of the parents is a sex offender; and

7 (10) the terms of a parent's military family-care plan  
8 that a parent must complete before deployment if a parent  
9 is a member of the United States Armed Forces who is being  
10 deployed.

11 In the case of a custody proceeding in which a stepparent  
12 has standing under Section 601, it is presumed to be in the  
13 best interest of the minor child that the natural parent have  
14 the custody of the minor child unless the presumption is  
15 rebutted by the stepparent.

16 (b) The court shall not consider conduct of a present or  
17 proposed custodian that does not affect his relationship to the  
18 child.

19 (c) Unless the court finds the occurrence of ongoing abuse  
20 as defined in Section 103 of the Illinois Domestic Violence Act  
21 of 1986, the court shall presume that the maximum involvement  
22 and cooperation of both parents regarding the physical, mental,  
23 moral, and emotional well-being of their child is in the best  
24 interest of the child. There shall be no presumption in favor  
25 of or against joint custody.

26 (d) The immigration status of a parent, legal guardian, or

1 relative does not disqualify the parent, legal guardian, or  
2 relative from receiving custody.

3 (Source: P.A. 95-331, eff. 8-21-07; 96-676, eff. 1-1-10.)

4 Section 20. The Probate Act of 1975 is amended by changing  
5 Section 11-3 as follows:

6 (755 ILCS 5/11-3) (from Ch. 110 1/2, par. 11-3)

7 Sec. 11-3. Who may act as guardian.

8 (a) A person is qualified to act as guardian of the person  
9 and as guardian of the estate if the court finds that the  
10 proposed guardian is capable of providing an active and  
11 suitable program of guardianship for the minor and that the  
12 proposed guardian:

13 (1) has attained the age of 18 years;

14 (2) is a resident of the United States;

15 (3) is not of unsound mind;

16 (4) is not an adjudged disabled person as defined in  
17 this Act; and

18 (5) has not been convicted of a felony, unless the  
19 court finds appointment of the person convicted of a felony  
20 to be in the minor's best interests, and as part of the  
21 best interest determination, the court has considered the  
22 nature of the offense, the date of offense, and the  
23 evidence of the proposed guardian's rehabilitation. No  
24 person shall be appointed who has been convicted of a

1 felony involving harm or threat to a child, including a  
2 felony sexual offense.

3 One person may be appointed guardian of the person and another  
4 person appointed guardian of the estate.

5 (b) The Department of Human Services or the Department of  
6 Children and Family Services may with the approval of the court  
7 designate one of its employees to serve without fees as  
8 guardian of the estate of a minor patient in a State mental  
9 hospital or a resident in a State institution when the value of  
10 the personal estate does not exceed \$1,000.

11 (c) A relative's immigration status does not disqualify the  
12 relative from acting as guardian.

13 (Source: P.A. 94-579, eff. 8-12-05.)

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2		Statutes amended in order of appearance
3	20 ILCS 1305/1-35	
4	705 ILCS 405/1-19 new	
5	705 ILCS 405/1-20 new	
6	705 ILCS 405/1-21 new	
7	705 ILCS 405/2-4a	
8	705 ILCS 405/2-28	from Ch. 37, par. 802-28
9	705 ILCS 405/2-35 new	
10	705 ILCS 405/2-36 new	
11	750 ILCS 5/602	from Ch. 40, par. 602
12	755 ILCS 5/11-3	from Ch. 110 1/2, par. 11-3